

**REMARKS/ARGUMENTS**

Claims 1-5, 7-12 and 14-17 are pending in the above application. By the above application, claims 15-17 have been added.

The Office Action dated February 23, 2011, has been received and carefully reviewed. In that Office Action, claims 5 and 12 were rejected under 35 U.S.C. 102(e) as being anticipated by Graske, and claims 1-4, 7-11 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Graske in view of Hunter. It is believed that all claims are allowable over the art of record, and reconsideration and allowance of all claims is respectfully requested in view of the above amendments and the following remarks.

**REJECTIONS UNDER 35 U.S.C. 102(e)**

Claim 5 is rejected under 35 U.S.C. 102(e) as being unpatentable over Graske. Claim 5 as amended recites a method for a cell phone service provider to communicate to a cell phone user, that user located in a particular local geographical area, an alert message regarding a first condition that affects that particular local geographical area. The method includes receiving the alert message from a reporting agency, where the message contains information as to locations affected. The method also includes determining that the cell phone of the user is located in the geographical area and providing to the cell phone of the user at least one communication advising the user of the alert message. The method also includes permitting the user to limit the frequency at which updates are provided.

Applicant has previously argued that Graske does not show at least the limitation

“permitting the user to limit the frequency at which updates are provided to him.” Applicant argued that setting a time during which no alerts are received does not constitute limiting the frequency at which communications are provided. MPEP 707.07(f) requires that examiners answer all material traversed by an Applicant if a rejection is repeated. In the present case, Applicant’s arguments regarding the interpretation of “limiting the frequency” have not been addressed. Instead, the examiner has merely repeated that “provision or withholding of weather alert at specific periods, is being associated with the limiting the frequency at which said communications are provided.” It is respectfully submitted that there is no legal basis for finding that a claim limitation has been satisfied because some teaching in a reference “is associated with” a claim limitation. To the extent that the rejection is based on this “associated with” theory of anticipation, the rejection is respectfully traversed.

Moreover, nothing in the record provides any reason to think that a person of ordinary skill in the relevant art would call setting a time period during which no alerts are to be received “limiting the frequency” at which communications are received. It appears that that the examiner is interpreting “limiting the frequency” as setting the frequency to zero. However, inherent in the definition of “limit” is a sense of some type of continuation rather than a cutting off all together - one does not “limit” something to zero. For example, one can speak of limiting the time that a person is allowed to speak; however, if the person is prevented from speaking entirely, one would not say that the person’s speaking time is limited to zero minutes. Likewise, one can limit the speed on a road, but one would not call a prohibition against driving limiting the driving speed to

zero. In the same manner, preventing any alert messages from being received would not be referred to as limiting the frequency of message receipt to zero and would not be described as such by a person of ordinary skill in the art. Graske does not satisfy at least this limitation of claim 5, and claim 5 is submitted to be allowable for at least this reason.

If the rejection of claim 5 based on Graske is maintained, it is respectfully requested that the examiner respond to the above argument as required by MPEP 707.07(f) and 1) identify the legal basis for finding anticipation when a reference shows something "associated with" a claim limitation and 2) provide evidence or a reasoned explanation to show that a person of ordinary skill in the art would refer to setting a device to receive no communications as "limiting the frequency" at which communications are received.

New claims 15 and 16 depend from claim 5 and are submitted to be allowable for at least the same reasons as claim 5. Claim 15 further recites that limiting the frequency at which communications are provided comprises permitting a user to limit the frequency at which updates regarding the first condition are provided to him while allowing the cell phone of the user to receive an alert message regarding a second condition different than the first condition when updates regarding the first condition are being limited. Support for the underlined claim limitations can be found at page 5, lines 3-8, where it is indicated that a user can set either the types of alerts that he wishes to receive or request that updates not occur more frequently than every five minutes. Since an update relates to something that has already been reported, this language indicates that updates can be limited without interfering with other types of information

that have not already been reported. A person of ordinary skill in the art would understand from reading this description, for example, that traffic updates could be limited to once every five minutes, for example, without stopping tornado warnings from getting through. This limitation is not shown or suggested by Graske, and claim 15 is submitted to further distinguish over Graske for this reason.

Claim 12 is submitted to be allowable for at least the same reasons as claim 5.

Claim 17 depends from claim 12 and is submitted to be allowable for at least the same reasons as claim 12.

#### REJECTIONS UNDER 35 U.S.C. 103(a)

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graske in view of Hunter. Claim 1 recites a method for a cell phone service provider to communicate to a cell phone user, who is located in a particular local geographical area, an alert message that affects that particular local geographical area. The method includes, inter alia, identifying a destination, and communicating to the user directions from his present location to the destination. The Office Action acknowledges that Graske does not show at least identifying a destination and communicating to the user directions from his present location to the destination. However, Hunter is cited to address this deficiency. It is respectfully submitted that Hunter does not show identifying a destination and communicating directions from a present location to the destination. Therefore, even if Hunter is combined with Graske, the combination does not show or suggest the invention of claim 1.

The Office Action indicates that Hunter shows identifying a destination and

providing directions to the destination in paragraphs 0055, 0122 and 0123. Paragraph 0055 indicates that a user may receive “directions for escape.” However, paragraph 0055 does not indicate that these “directions” are to any identified destination. They appear to be merely instructions that the recipient should escape from wherever he is because the location is dangerous. This statement therefore does not show the limitations of claim 1. Paragraph 0055 also indicates that a user might be “directed to the roof.” The roof is an identified destination. However, identifying a destination does not constitute providing directions from a present location to the destination. For example, if a person asks for directions to the White House, telling that person “go to the White House” does not constitute providing directions. Advising a person to go to the roof of a building does not constitute providing a user with directions from a present location to the destination. At most the combination of Graske and Hunter might suggest providing a user with a message such as “escape from where you are” or “go somewhere safe” but the result would not be a method that identifies a destination and provides a user with directions from where they are located to that destination.

Paragraph 0122 of Hunter indicates that an “emergency notification may then be sent to the residents of the building informing them of the nearest routes for leaving the building...” This does not constitute an identification of a destination or directions from a present location to the destination. Paragraph 0123 of Hunter indicates that in the event of a tornado, some people may be notified to leave the area to the east and others to leave the area to the west. Again, “to the east” and “to the west” are not destinations or directions from a present location to a destination. Thus, Hunter provides no reason for a person of ordinary skill in the art to modify Graske in a manner that would result in the

invention of claim 1.

If the rejection of claim 1 is maintained, it is respectfully requested that the examiner identify at least one "destination" in Hunter and an example of directions that are being provided from the location of the user to that destination.

Claims 2-4 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

Claim 8 recites a system for communicating from a cell phone which includes apparatus limitations related to the limitations of claim 1. It is respectfully submitted that claim 8 as amended is allowable over Graske for at least the reasons provided above in connection with claim 1.

Among the limitations of claim 7 is a recitation of communicating to the user directions from his present location to a destination. This limitation is not satisfied by Graske for the reasons provided above in connection with claim 1. Claim 7 is therefore submitted to be allowable for at least the reasons provided in connection with claim 1.

Claim 14 recites a system for communicating from a cell phone which includes apparatus limitations related to the limitations of claim 7. It is respectfully submitted that claim 14 as amended is allowable over Graske for at least the reasons provided above in connection with claim 7.

### **CONCLUSION**

Each issue raised in the Office Action dated February 23, 2011, has been addressed, and it is believed that claims 1-5, 7-12 and 14-17 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly

solicited. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact the undersigned at the telephone number listed below.

*Deposit Account Authorization*

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,

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